

II. JURY SELECTION QUESTIONNAIRES

1. ABA American Jury Project Principles and Standards

PRINCIPLE 11 — COURTS SHOULD ENSURE THAT THE PROCESS USED TO EMPANEL JURORS EFFECTIVELY SERVES THE GOAL OF ASSEMBLING A FAIR AND IMPARTIAL JURY

Standard 11

- A. Before voir dire begins, the court and parties, through the use of appropriate questionnaires, should be provided with data pertinent to the eligibility of jurors and to matters ordinarily raised in voir dire, including such background information as is provided by prospective jurors in their responses to the questions appended to the notification and summons considered in Standard 10 D. 1.
 - 1. In appropriate cases, the court should consider using a specialized questionnaire addressing particular issues that may arise. The court should permit the parties to submit a proposed juror questionnaire. The parties should be required to confer on the form and content of the questionnaire. If the parties cannot agree, each party should be afforded the opportunity to submit a proposed questionnaire and to comment upon any proposal submitted by another party.
 - 2. Jurors should be advised of the purpose of any questionnaire, how it will be used and who will have access to the information.
 - 3. All completed questionnaires should be provided to the parties in sufficient time before the start of voir dire to enable the parties to adequately review them before the start of that examination.

2. The Rationale for Testing

The Commission chose this concept for testing because several judges in the Circuit already use written questionnaires before in-court voir dire begins to obtain information pertinent to the jurors' qualifications. The judges who use questionnaires believe they streamline the jury selection process for several reasons: (1) questionnaires minimize or eliminate repetitive questioning; (2) prospective jurors may be more willing to disclose sensitive information in writing than they would be if asked to do so in open court; (3) the judge and counsel can conduct a more focused voir dire because they have relevant information in advance; and (4) questionnaires reduce waiting time for prospective jurors who are likely to be excused for cause.

3. Authority Supporting the Concept's Use

- See Manual for Complex Litigation (Fourth) § 12.412 at 151 (2004).

4. Suggested Procedures for the Concept's Use

- In most cases, a relatively simple questionnaire can be prepared and administered to the jury *venire* on the day of jury selection. In lengthy, complex, or high-publicity cases, a more detailed questionnaire can be mailed to prospective jurors in advance of trial to permit review prior to the day of jury selection.
- Case-specific questions may be designed to elicit yes/no answers that will permit follow-up questioning during *voir dire*, or may be designed to elicit narrative answers.
- The judge should start with a draft that includes questions seeking basic background information and should solicit the views of the parties' counsel regarding other questions (general or case-specific) to be included. The counsel should be permitted to review and comment on the draft questionnaire before it is submitted to prospective jurors. (Sample questionnaires are attached to the memorandum of the judge's consideration.)
- On the day of jury selection, the questionnaires are given to prospective jurors to be completed, along with a short cover letter briefly describing the case being tried and explaining the purpose of the questionnaire. (A sample letter follows to this explanation.)
- The completed jury selection questionnaires are collected by the judge's staff, and copies are made and distributed to counsel.
- After the jurors are sworn, the judge questions each prospective juror, inquiring whether the juror's answers on the questionnaire were true and correct. (Alternatively, the jurors may be sworn in before completing the questionnaires.) The judge also asks follow-up questions prompted by the juror's answers. Because the judge and parties already have a written questionnaire, they are able to determine in advance whether particular inquiries of particular jurors should be made privately.
- Depending on the judge's practice, counsel may be permitted to ask supplemental questions to the prospective jurors, or may be permitted to propose supplemental questions to be asked by the judge.
- District Judge Matthew Kennelly has used jury selection questionnaires in most civil and criminal cases throughout his tenure on the bench. He is available to answer any questions a judge may have regarding the use of written questionnaires or the logistics of the process.

5. Suggested Jury Instructions

- Because the questionnaires are administered prior to trial, no additional jury instructions are necessary. As noted above, a cover letter explaining the process may be given to the prospective jurors along with the jury selection questionnaire. The judge can also address the prospective jurors in open court before they fill-out the questionnaire. In doing so the judge should, of course, explain that the goal of the jury selection process is to obtain a jury that will be fair to both sides of the case. The judge should also stress the need that the prospective jurors be totally candid and truthful in filling-out the information on the jury selection questionnaires.
- The judge need not give any additional jury instructions to use this concept, other than providing the standard request regarding completing the Project questionnaire after the jury returns the verdict or is discharged without returning a verdict which is on the next page of this section.

The standard instruction each judge is requested to give to the jurors after the jury returns the verdict or is discharged without returning a verdict regarding completing the Project's questionnaires is on the next page of this section.

The Commission wishes to acknowledge and thank the following persons who served as part of the subcommittee addressing the concept of Voir Dire Questionnaires and Procedures:

Attorney Chairpersons

Alan Salpeter
Dana Douglas
Mayer, Brown, Rowe & Maw

Reviewing Judge

Judge Matthew Kennelly

JURY INSTRUCTIONS REGARDING THE QUESTIONNAIRES
THAT ARE A PART OF THE JURY PROJECT TO BE GIVEN
AT THE TIME THE JURY IS DISCHARGED

Members of the jury, thank you again for your service as jurors in this case. Your service in this case is now over, but I have one additional request of you. Before you say your good-byes to one another and leave the jury room today, I would like you to fill out a brief questionnaire regarding your jury service in this case. The questionnaires I am asking you to complete are a part of a project in which Federal District Courts in the States of Indiana, Illinois and Wisconsin are participating. Your answers to the questions in the questionnaires will assist us in finding ways to improve the jury system.

Your filling out the questionnaires is voluntary. It is not required as part of your jury service in this case. If you desire to be on your way without filling-out the questionnaires, we fully understand and thank you again for your service. We appreciate and thank in advance those of you who do fill out the questionnaires because you will be providing us with valuable information regarding your jury service.

Thank you again.

Sample letter and questionnaire 1

_____, 2005

Dear potential juror:

You have been summoned as a potential juror in the case of _____.

In this case, Mr. _____ contends that Mr. _____, who is a _____ police officer, falsely arrested him and used excessive force against him. Mr. _____ has sued to recover money damages. Mr. _____ denies these contentions and denies that Mr. _____ is entitled to recover damages.

In order to streamline the process of jury selection, I have prepared the attached questionnaire. Please take a few moments to complete it. Although I have not given you a great deal of space for your answers, please do your best to write legibly so that I and the lawyers in the case can read your answers. Because your answers may assist me and the lawyers in the process of jury selection, it is very important that you be truthful and accurate in answering the questions. We may ask you some additional questions in the courtroom.

Thank you for your time and for your service today.

Sincerely,

Matthew F. Kennelly
United States District Judge

QUESTIONNAIRE FOR PROSPECTIVE JURORS

1. Your full name: _____ 2. Your age: _____
3. Cities or suburbs where you have lived for the last ten years:

4. Do you own your home or rent it? _____
5. Your level of education / degrees: _____
6. Your current occupation, name of your employer, and number of years employed there (if you are retired, please give this information about your last occupation):

7. What other jobs and employers have you had during your working life?

8. If you are married, describe your spouse's occupation, employer, and number of years worked there (if spouse is retired, please give this information about past employment):

9. Employment information about others who live with you (for example, children, parents, roommates), and any adult children:

10. List any newspapers and magazines that you read regularly:

11. List your hobbies and major interests outside of work:

(See back of page for additional questions.)

12. Have you, or any relatives or close friends ever been employed by a law enforcement agency or security-related business? _____
13. Have you ever applied for a job with a law enforcement agency or security-related business? _____
14. Have you, or any relatives or close friends ever been employed by the city of _____, or by any agency of any local, state, or federal government? _____
15. Have you ever lived in the city of _____ or had any contact with any member of the _____ Police Department? _____
16. Have you, or any relatives or close friends, ever been:
- a) questioned or detained by a police officer? _____
 - b) arrested or charged with violating any law or ordinance? _____
 - c) convicted of a crime, jailed or imprisoned? _____
17. Have you, or any relatives or close friends, ever been the victim of a crime? _____
18. Have you had any dealings with the police that left you with strongly negative or strongly positive feelings about police officers generally? _____
19. Do you have any relatives or close friends who are attorneys, judges, or court personnel? _____
20. Have you or a family member ever been sued, or filed a lawsuit? (This includes lawsuits that you were involved in through your employment.) _____
21. Have you ever served on a jury? _____
22. Are there any facts or circumstances you believe that the court or the parties to the case should know about your ability to serve as a fair and impartial juror in this case?
- _____
- _____

Sample letter and questionnaire 2

_____, 200_

Dear potential juror:

You have been summoned as a potential juror in the case of _____. Ms. Roberts claims that while working at _____, she was subjected to sexual harassment and sex discrimination by a supervisor, _____. _____ and _____ deny these claims.

In order to streamline the process of jury selection, the Court has prepared the attached questionnaire. Please take a few moments to complete it. Although we have not given you a great deal of space for your answers, please do your best to write legibly so that I and the lawyers in the case can read your answers. Because your answers may assist me and the lawyers in the process of jury selection, it is very important that you be truthful and accurate in answering the questions. We may ask you some additional questions in the courtroom.

At the conclusion of the jury selection process, all of the questionnaires will be returned to the Court, and they will not be made part of the public record in the case.

Thank you for your time and for your service today.

Sincerely,

Matthew F. Kennelly
United States District Judge

MFK:m
attachment

QUESTIONNAIRE FOR PROSPECTIVE JURORS

1. Your full name: _____ 2. Your age: _____
3. Cities or suburbs where you have lived for the last ten years:

4. Do you own your home or rent it? _____
5. Your level of education / degrees: _____
6. Your current occupation, name of your employer, and number of years employed there
(if you are retired, please give this information about your last occupation):

7. What other jobs and employers have you had during your working life?

8. If you are married, describe your spouse's occupation, employer, and number of years
worked there (if spouse is retired, please give this information about past employment):

9. Please list the ages of your children (if any): _____
10. Employment information about anyone else who lives with you, and any adult children:

11. List any newspapers and magazines that you read regularly:

12. List your hobbies and major interests outside of work:

(See back of page for additional questions.)

13. Have you, or a relative or close friend, ever worked for a governmental agency or law enforcement agency? _____
14. Have you, or a relative or close friend, ever worked for _____? _____
15. Have you ever been responsible to supervise other workers, or have you ever been involved in making decisions to discipline, discharge, hire, train, or promote other workers? _____
16. Have you, or a relative or close friend, ever been discharged or fired from any job? If so, please identify the person involved and the nature of the job.

17. Have you, or a relative or close friend, ever felt that you were discriminated against on the job, harassed at work or treated unfairly by an employer? _____
18. Have you, or a relative or close friend, ever made a claim of discrimination or harassment involving an employer? _____
19. Have you, or a relative or close friend, ever been accused of discrimination or harassment? _____
20. Have you or a family member ever been sued, filed a lawsuit, or testified in a deposition or in court? (Include cases you may have been involved in through your employment.) _____
21. Have you ever served on a jury? _____
22. Are there any facts or circumstances you believe that the court or the parties to the case should know that might affect your ability to serve as a fair and impartial juror in this case?

Sample letter and questionnaire 3

_____, 200_

Dear potential juror:

You have been summoned as a potential juror in the case of _____. The plaintiff in the case, _____, contends that the defendant, _____, breached a contract between the two parties. The defendant, _____, denies this claim.

The plaintiff also contends that the defendant, _____, interfered with the contract between _____ and _____. The defendant, _____, denies this claim.

In order to streamline the process of jury selection, the court has prepared the attached questionnaire. Please take a few moments to complete it. Although we have not given you a great deal of space for your answers, please do your best to write legibly so that I and the lawyers in the case can read your answers. Because your answers may assist me and the lawyers in the process of jury selection, it is very important that you be truthful and accurate in answering the questions. We may ask you some additional questions in the courtroom.

Thank you for your time and for your service today.

Sincerely,

Matthew F. Kennelly
United States District Judge

MFK:m

QUESTIONNAIRE FOR POTENTIAL JURORS

1. Your full name: _____ 2. Your age: _____
3. Cities or suburbs where you have lived for the last ten years: _____

4. Do you own your home or rent it? _____
5. If you have children, what are their ages? _____
6. Your level of education / degrees: _____
7. Your current occupation, name of your employer, and number of years employed there
(if you are retired, please give this information about your last occupation):

8. What other jobs and employers have you had during your working life? _____

9. If you are married, describe your spouse's occupation, name of employer, and number of
years worked there (if spouse is retired, please give this information about last employment):

10. Describe the occupation of any adult children and anyone else who lives with you:

11. List your hobbies and interests outside of work: _____

12. Identify any organizations to which you belong (labor union, other work-related, social,
civic, community, etc.):

13. Describe any volunteer activities that you are involved in: _____

(additional questions on back of page)

14. List any newspapers and magazines that you read regularly: _____

15. List any television and radio programs that you watch or listen to regularly: _____

16. Have you ever served in the military? _____
17. Have you ever started or owned your own business? _____
18. Have you ever been in a business deal that was not finalized? _____
19. Have you ever believed that you, or someone close to you,
was taken advantage of unfairly in a business dealing? _____
20. Have you or a family member ever been sued or filed a lawsuit? (Please
include cases you may have been involved in through your employment): _____
21. Have you ever testified in court or in a deposition? _____
22. Have you ever served on a jury? _____
23. Have you ever heard of, or owned stock in, any of the following companies:

_____ (fill in - plaintiff)
_____ (fill in - defendant 1)
_____ (fill in - defendant 2)
_____ (fill in - related entity)
24. Some of the companies involved in this case are based in states
other than Illinois. Are there any of you who might have difficulty
giving fair consideration to a company based in another state? _____
25. Have you ever owned or operated a motorcycle? _____
(this particular case involved motorcycle racing)
26. Have you ever attended a motorcycle event called
“motocross” or “supercross” or have you ever seen one on television? _____
27. Is there anything you can think of that might affect your ability to be
a fair and impartial juror in this case? If so, please describe.

